

### **Remarks/Arguments**

The preceding amendments and following remarks are submitted in response to the non-final Office Action mailed February 17, 2004, setting a three-month shortened statutory period for response ending May 17, 2004. With this Amendment, Applicant has amended claims 24-25, 29, 31-32, 34-37, 39-42, and 46. Reconsideration, examination, and allowance of all pending claims are respectfully requested.

#### **35 U.S.C. § 112 Rejections**

In paragraph 1 of the Office Action, the Examiner rejected claims 24-35 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 24, the Examiner states that the phrase “a bracket attached to the flange” contained in line 6 of that claim is confusing and unclear. Moreover, with respect to claim 29, the Examiner states that the phrase “the vapor barrier” lacks antecedent basis.

In response to these rejections, Applicant has amended claim 24 to recite “a bracket attached to the receptacle”, overcoming the Examiner’s indefiniteness rejection of that claim. Moreover, Applicant has amended claim 29 to now depend from dependent claim 28, which provides the necessary antecedent support for the phrase “the vapor barrier.” Applicant respectfully asserts that these amendments overcome the Examiner’s indefiniteness rejection of claims 24-35 under 35 U.S.C. § 112, second paragraph.

#### **35 U.S.C. § 103(a) Rejections**

In paragraph 2 of the Office Action, the Examiner rejected claims 24-31, 36-39 and 43-46 under 35 U.S.C. § 103(a) as being unpatentable over *Nix et al.* (U.S. Patent

No. 4,724,281) in view of *Mulks* (U.S. Patent No. 5,721,394). Moreover, in paragraph 3 of the Office Action, the Examiner further rejected claims 32-35 and 40-42 under 35 U.S.C. § 103(a) as being unpatentable over *Nix et al.* (U.S. Patent No. 4,724,281) in view of *Mulks* (U.S. Patent No. 5,721,394) as applied to claim 31, and further in view of *Solek* (U.S. Patent No. 4,438,859).

In response thereto, Applicant has amended independent claim 24 to further recite the limitation that the assembly includes an outer wall layer disposed at least in part over each of the receptacle, bracket, opening, and first structural member. In addition, Applicant has amended method claim 36 to recite the step of installing a wall layer at least in part over each of the receptacle, bracket, opening, and structural member. Support for these amendments can be found, for example, in Figures 6-7 of the drawings.

Unlike the invention of claims 24 and 36, the prior-art references cited by the Examiner do not disclose or suggest an outer wall layer disposed at least in part over each of the receptacle, bracket, opening, and a structural member. In contrast, the *Nix et al.* reference appears to suggest an outlet box (2) including a flange (12) that is located a distance back from the front opening of the outlet box (2). As can be seen installed in Figure 4, the flange (12) of the outlet box (2) seats flush against an outer layer (56) of sheetrock such that no portion of the outer layer (56) is disposed over the front opening. Since the outer layer (56) must be pre-cut in order to fit over the forward portion (14) of the outlet box (2), the outer layer (56) cannot extend over the opening of the assembly. As a result, such configuration permits the use of only devices of a predetermined size.

In similar fashion, the *Mulks* reference also fails to disclose or suggest an outer layer disposed at least in part over the receptacle, bracket, opening, and a structural

member. Instead, as can be clearly seen in Figure 2 of that reference, a number of flanges (5) extending from the box are mounted flush over the outer surface of the outer panel (21), with only the flanges (5) and an optional cover showing. Thus, for reasons similar to that provided with respect to the *Nix et al.* reference, the outer panel (21) in *Mulks* could not be disposed at least in part over the receptacle, bracket, opening, and a structural member, as recited in claims 24 and 36.

Applicant respectfully asserts that there would be no motivation to combine the *Nix et al.* reference with that suggested by the *Mulks* and/or *Solek* references since none of the references disclose or suggest an assembly or method including an outer wall layer disposed at least in part over each of the receptacle, bracket, opening, and structural member. Since none of the boxes disclosed in the cited prior-art references would provide the installer with a way to knockout the opening of the outer wall layer subsequent to fastening the box to the structural member(s), Applicant respectfully asserts that it would not have been obvious to combine the references to arrive at the invention of claims 24 and 36.

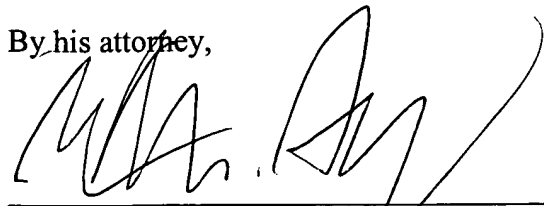
Because independent claims 24 and 36 are allowable, claims 25-35 and 37-46 are also allowable for the reasons stated above, and since they add other significant elements to distinguish them from the cited prior art.

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner would like to discuss the Application or its examination, please contact the undersigned at (612) 677-9050.

Respectfully submitted,

Craig A. Jacks

By his attorney,

A handwritten signature in black ink, appearing to read "G. M. Seager", written over a horizontal line.

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